studies by actual or potential teachers thus offers a promising line of attack on current deficiencies in the schools. The following kinds of support are required:

1. Grants to acquaint teachers in training or already at work with good teaching practices, by offering them the opportunity to observe or join in successful programs and to pursue their own advanced study or creative work.

2. Fellowships for graduate study and for attendance at summer institutes.

3. Support to individuals for experiments and demonstration projects in the schools.

4. Travel grants to give carefully selected teachers a chance for direct contact with the language, art forms, or other aspects of their subject matter.

5. Fellowships for school administrators to increase their appreciation of the values and responsibilities inherent in humanities teaching.

The Foundation may wish to act directly through individual grants to applicants screened by its own committees, or indirectly through organizations devoted to these same ends in whose selection processes the Foundation has confidence.

In the colleges and universities there is a great need for graduate scholarships and fellowships for the preliminary training of scholars, teachers, and artists at all stages; likewise, for postdoctoral fellowships in the humanities. The selection of individuals to receive these fellowships should be based upon the judgment of committees or juries composed of scholars, writers, and artists whose work has achieved distinction, with the majority of the members still productive.

B. Support of groups and organizations: In addition to the authority to provide scholarships and fellowships for individuals, the Foundation should be empowered to make grants to and conclude contracts with any corporate or private body involved in the humanities or the arts for the promoting of research, teaching, performance, and publication. Some examples are:

1. Summer or full academic-year institutes for the training of elementary and secondary schoolteachers. Such programs should be directed primarily toward improving the participants' knowledge of their subjects, but in addition they should be concerned with developing techniques to bring the humanities and the arts to children of all levels of ability or cultural background.

2. The Foundation should support improved teaching at all levels of education. It should encourage experiments in presentation and organization, including interdisciplinary studies where many fruitful advances may be made. This support should extend to the development of new curricular materials.

(3) Facilities:

(a) Buildings: Many cultural and educational organizations in this country stand in great need of new and expanded libraries and space for instruction, research, creation, performance, and exhibition. The Foundation should be empowered to support the planning and construction of such buildings.

(b) Libraries: Good libraries are needed at all levels in all subjects for teaching and research. Scholars in nearly all humanistic fields deal almost entirely with information preserved and organized in book form, and they, therefore, need large and complex libraries. Improved methods of instruction are making the library more and more important to the schools as well as the colleges and universities. The habit of using libraries begins in the school, but most school libraries are pitifully inadequate. They must be developed and extended and must be designed to lead students into the local public libraries. Since most public libraries already are incapable of supporting the demands upon them, they too must be more generously supported, not only in the interests of the schools, but in the interests of the general public. Libraries are a source not only of learning but also of pleasure.

Fortunately, the recent extension of the Library Services Act can be expected to stimulate the improvement of public library services throughout the country. In this legislation the Congress recognized the need for Federal aid on a substantial scale for public libraries in urban as well as rural communities. Each State, in order to derive the maximum benefit from this wise legislation, should establish a comprehensive public library system.

The Library of Congress is the cornerstone of the country's system of libraries and should, therefore, be strengthened, but this by itself is not enough; all major research libraries should be recognized as integral parts of this system. Each disseminates information on its holdings, each lends and films copies for the benefit of scholars throughout the United States, and each should seek to avoid needless duplication of the others. Undernourishment tends to force each library to throw all of its inadequate resources into a losing battle to meet the most urgent demands of its own institution. If libraries were adequately supported, however, further achievements in cooperation and even more effective services could confidently be anticipated. Strength and health will enable American research libraries to work together as they must, if scholarship is to prosper nationally and if the record of civilization is to be preserved for coming generations, not only as a memory of the past but as a base for creative thought in the future.

We emphasize that not only should the Foundation be able to assist research libraries but also it should contribute to the development of public and school libraries, which are of equal importance in the cultural life of our people.

(c) Facilities of exchange and publication: The Foundation should be authorized to make grants and contracts for the exchange of scholarly and artistic personnel and information both internally within the United States and with other countries. Conferences and publications should be eligible for support, though it is understood that the Foundation should concentrate its subsidies for publication in university presses or in experimental and scholarly works which under present circumstances cannot be financed.

5. Organization of the Foundation

A. The board: The Board of the National Humanities Foundation should consist of 24 members who would be chosen for a term of 6 years each by the President of the United States, with the advice and consent of the Senate. These persons should be selected for their general cultivation and competence in the humanities as such, in the arts, in education, or in the direction of libraries and organizations concerned with the arts, and they should represent a wide spectrum of American life. Appropriate organizations should be requested to nominate candidates. The terms of the first 24 selected should be staggered to permit replacement of one-third of the members every 2 years.

B. The Director: The Director of the Foundation, who would be a member of the Board ex officio, should be appointed by the President of the United States with the advice and consent of the Senate. The Board should make recommendations to the President, and the President ought not to act until the Board has had an opportunity to do so. Because of the Director's vital role in the conduct of the Foundation, the members of the Commission on the Humanities place the greatest stress upon the need to select for the office of Director a man of the highest distinction in the Foundation's areas of concern. He should serve for a term of 6 years, unless the President should wish to replace him.

C. Commissions, committees, and divisions: The Director, with the approval of the Board, should appoint a staff, and the Board should organize the Foundation into divisions appropriate to its work. At the discretion of the Board, each division might well have an advisory committee composed of eminent persons in the field involved. In addition, there should be regional and national committees charged with judging applications for grants. When necessary, the Board might appoint special commissions to make recommendations upon matters of policy.

6. General authority of the Foundation

The Foundation should be empowered to administer funds through governmental appropriations, through the transfer from other departments of government of funds whose use falls within the scope of the Foundation, and through gifts from private foundations, corporations, and individuals. Such funds should be used by the Foundation in such ways as it sees fit, within the terms of the appropriation, gift, or grant, and under the general provisions establishing the Foundation. It should also be able to contact with profitmaking organizations or nonprofitmaking organizations and to publish or support publication.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Asisstance Act of 1961, as amended, and for other purposes.

Mr. STENNIS. Mr. President, the subject presented by the Dirksen-Mansfield amendment is very close to my heart, based upon a tenure of public service that extends over a good many years, starting at the county level as a member of the State legislature.

I point out, too, that so far as apportionment in my State is concerned, for the lower house the percentage is very favorable indeed, among the better ones in the Nation, according to the map taken from the New York Times.

As to the State senate, the proportion is not as favorable as it should be according to the interpretation of those who oppose the amendment. But it is certainly among the better ones and among the higher percentages with reference to the number of voters required to elect the membership of the State senate. So our State has not lagged, according to the standards of those who oppose the amendment.

I address myself to the principle of government involved, and to what I think is an unwarranted invasion by the Supreme Court into the policymaking department of our government. I say that with deference to the Court as a court. I do not want to discredit it. I always want to enhance the prestige of the judicial branch of our Government. But I be-

lieve that if the latest opinion stands, it will be a complete reversal of the democratic processes in connection with our State, local, and Federal governments, because it will be a milestone in the trend rapidly developing of letting our laws and policies be changed and made in large part by men who have not been elected to the policymaking branch of the Government. They have not been selected directly by the voters.

They hold office apart from the electorate, they are not accountable politically for their decisions, and their tenure is for life. That is the basic problem that is raised by this issue.

Mr. President, I rise to support the pending amendment offered by the distinguished majority and minority leaders. It embodies limited relief for the several States from what I believe to be a most dangerous and unwise series of opinions rendered by the U.S. Supreme Court on June 15 of this year. Speaking for the Court in *Reynolds* v. *Sims*, 84 S. Ct. 1362 (1964), Mr. Chief Justice Warren advanced a wholly new principle when he stated:

> We hold that, as a basic constitutionl standard, the equal protection clause requires that the seats in both houses of a bicameral State legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for State legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.

Thus the Court extended even further its jurisdiction over legislative apportionment of the respective States, first assumed only 2 years ago in *Baker et al.*, v. *Carr et al.*, 369 U.S. 186 (1962).

There are two fundamental questions involved in these decisions: first, does the Constitution of the United States grant to the Federal courts jurisdiction over the subject matter of legislative apportionment; and, second, does the Constitution of the United States require that not only one, but both houses of a State legislature be strictly apportioned on a basis of population.

In an unaswerable dissent in Baker against Carr, Mr. Justice Frankfurter destroyed the majority argument that questions of legislative apportionment present justiciable issues over which the Federal Courts may exercise jurisdiction. Despite the logical and historical validity of Mr. Justice Frankfurter's opinion, however, the Supreme Court has nevertheless continued to entertain these cases since Baker. In so doing the Court summarily reverses and ignores a uniform course of decisions prior to its 1962 holding to the contrary.

In Reynolds against Sims and companion cases decided on June 15, 1964, the Court again assumed jurisdiction of this question and extended its prior decisions to hold that the Constitution not only requires that one branch of the respective State legislatures must reflect the "one person-one vote concept," but it further advanced this theory to hold that in States having a bicameral legislature, both houses must be apportioned on a population basis. The effect of this decision can hardly be seen in the States which were parties to the cases decided on June 15 of this year. In Colorado, for example, the people of that State had, by referendum, approved an apportionment plan; the Court, however, refused to accept that plan.

Mr. President, we could argue a long time about various principles of government and interpretations of the Constitution of the United States, but I believe everyone agrees that this is an entirely new field which the Supreme Court has entered, and involves an entirely new precedent, contrary to the historical points that were made in the adoption of the 14th amendment to the Constitution.

The case in Colorado is a striking example of how far such new action goes, when we see the Court stepping in and overruling an apportionment plan which had been approved by the people of that State.

We can talk about rotten boroughs and we can talk about manipulations in State legislatures; we can talk about a controlled Governor, and we can even talk about corruption of any kind, but certainly all that goes by the board and has no bearing on a situation such as that in Colorado, where the people themselves had approved the apportionment plan submitted to them.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Wyoming. I know of his deep interest in this subject.

Mr. SIMPSON. Is it the understanding of the Senator from Mississippi that all 63 counties in Colorado had voted in favor of the apportionment plan?

Mr. STENNIS. That is a new fact which I am glad to have the Senator give me. That fact escaped my attention. I knew that the State as a whole had voted in favor of the plan. The Senator has given me a new fact, and that is a further confirmation of what I have said.

Mr. SIMPSON. All 63 counties were in favor of the apportionment plan. In Wyoming an apportionment was made in 1962. Subsequently a suit was brought to determine the validity of the apportionment. Upon the Supreme Court's decision, the Governor of Wyoming called both houses of the legislature into a special session to enact a new constitutional amendment to the Wyoming constitution, to bring it in line with the Supreme Court decision. The legislature became involved in politics, and could not muster a two-thirds attendance. As a result, the special session went for naught. So we are confronted with that situation in Wyoming.

Is it not the idea and attitude of the Senator from Mississippi that we are in need of the Dirksen-Mansfield amendment, so that we can determine what each State wishes to do?

Mr. STENNIS. The Senator has correctly stated the issue. It is an absolute necessity. That is shown by the fact that no similar provision was written into its decision by the Court. With all respect to the Court, the Court really did not understand the practical application of this problem.

Mr. SIMPSON. I invite attention to the fact—and I am sure the Senator already knows this—that a group of law deans, without expressing any opinion as to the validity of the Supreme Court's opinion, expressed the thought that what we are trying to do is not the proper method of proceeding. The Supreme Court, in effect, assumed a legislative prerogative, and consequently there is a necessity for Congress to reassert its authority in this field.

Mr. STENNIS. The Senator has given the complete and perfect answer; namely, that we must resort to some means to correct the situation. This is not the ideal procedure, but we must resort to some practical means to forestall the evils that flow from the Supreme Court's decision.

Mr. SIMPSON. I wholeheartedly agree with the Senator from Mississippi. I appreciate his allowing me to interrupt him.

Mr. STENNIS. I thank the Senator for his great contribution. I am always delighted to yield to the Senator from Wyoming.

Under the doctrine laid down by the Supreme Court, the Federal district court then ordered the State of Colorado to reapportion its legislature within 2 weeks.

The Senator from Wyoming has already mentioned the difficulty of getting at problems of this kind which uproot and reverse policies of State governments.

Likewise, in the State of New York, the Federal district court has directed that the members of the legislature of that State who are elected this fall shall serve only during one session, despite the State constitutional provision providing for 2-year terms.

I do not know of any decision which shows less respect for the basic concepts of State government and powers that belong to the States than this Supreme Court opinion. One can be in favor of the amendment without in any way defending some instances of abuse of legislative power or the failure to act by the legislature. This is an attempt to give the States the right to make adjustments in their own time and in their own way at the State level.

Mr. President, the people of New York elect their legislative officeholders for 2-year terms under the provisions of the State constitution. That provision was not challenged at all. And yet Federal Court has said: "We will let your legislators serve 1-year terms for one session only."

How can that be? Certainly the State Legislature of New York, in the most populous State and still the richest State in the Nation, knows what to do with apportionment. Yet the Court has stated, in effect, "Because you did not do certain things in connection with reapportionment, we will clip off your term and let you serve for one session. That will be the end of your term."

How far can the Court stray from its basic jurisdiction, and how far afield can it go with reference to these fundamental principles?

These are only examples of the enroachment on duly constituted State authority, and the confusion which has resulted and will continue to result from the latest decisions of the Supreme

Court. An examination of the legislative history and original meaning of the 14th amendment clearly discloses that the equal protection clause does not grant to the Federal courts the authority which has now been assumed.

Mr. Justice Harlan in his dissenting opinion in Reynolds against Simms fully develops the debate in Congress on the question of the adoption of the 14th amendment. That dissenting opinion is a classic and will, I believe, go down in history as a turning point in the present trend of the Court to move over into new fields. I believe that that dissenting opinion will awaken and arouse the electorate, and that the leaders of the people at the State and National levels will rally. It is so sound and logical that it cannot be overcome, but will be the starting point on the way back.

The very wording of the 14th amendment demonstrates that its authors and the Members of Congress who voted for its adoption did not intend to take from the respective States the right which they had previously exercised to determine the composition of their legislatures. I shall not discuss the legislative history in detail, but I would refer each Member of the Senate to Justice Harlan's brilliant and incisive dissenting opinion.

In addition to the unequivocal language of the 14th amendment, the practices of the States at the time of the ratification of the amendment, soon after the Civil War, substantiate the opinion that the States are free to apportion their legislatures on factors other than population. For example, of the 23 loyal States which ratified the amendment, 5 had constitutional provisions providing for apportionment of at least one house on the basis of factors other than population; 10 more of those States gave primary emphasis to population, but also considered other factors. As a condition for readmission to the Union, the 10 States that attempted to secede were required to ratify the 14th amendment. As Mr. Justice Harlan states, the constitution of each of those States was studied, and debate over reapportionment was extensive; yet 6 of the 10 States had constitutional provisions which substantially departed from the method of apportionment now required by the Supreme Court.

As Mr. Justice Harlan so well stated in his dissenting opinion:

> It is incredible that Congress would have exacted ratification of the 14th amendment as the price of readmission, would have studied the State constitutions for compliance with the amendment, and would then have disregarded violations of it.

The inescapable conclusion of this legislative history and experience, as well as the judicial precedents prior to the rendering of these decisions on June 15, is that the Constitution does not prohibit the respective States from determining the apportionment and composition of both houses of their legislatures.

In addition to the legal attacks on the constitutional validity of these decisions, I submit that there are other compelling reasons to correct the decisions of the Supreme Court. This is a nation composed of many elements and population groups, each having economic, political, and social interests peculiar to its own circumstances. In a republican form of government, each of these group interests is entitled to recognition in its legislative representation. Citizens in rural areas, for example, have interests different from those of urban and semiurban population groups. Agricultural interests differ from those of industrial organizations, and similar distinctions can be made for the interests of many other groups throughout our Nation.

The factors which should be considered in providing representation for these various interests are susceptible of recognition and definition only by the State and local governments. No judicial body, State, or Federal, is qualified to pass on these questions and arrive at fair and workable solutions. Our entire legal and historical background substantiates this fact.

There are many fields in which I would not try to set myself up as one qualified to speak with more than ordinary knowledge or comprehension; but the subject of rural people, people in areas somewhat remote, people away from the great organization centers of the State, is a subject on which I am informed. I was born and reared in one of those areas. I have lived with the people there. I have represented them in the State legislature. I was at one time a prosecuting attorney, and then a judge.

One group is no better than others. None has more virtue than another. I do not speak of the problem in that way. But I know that most of the fundamental principles of our form of government came from men with an agricultural background. Thomas Jefferson, perhaps the greatest political philosopher this Nation has ever produced, is an outstanding example of that group.

Our theory of government, the feel of it, and the idea behind it, are based upon the idea that every group will have a part; that every area will be a part.

In addition to this political philosophy, which has continued to characterize those groups to a greater extent, in proportion, than other groups, I believe those areas have served also, as a great spiritual reservoir of the Nation. They have contributed their share of the people who became spiritual leaders, not only of their own areas, but throughout their States and throughout the Nation. To cut them off, as the proposed headcount philosophy would do, to the point where they would have no appreciable part to play in the affairs of their State government or influence in their affairs, would be to give them the "dry rot" treatment, so to speak, and would dry up one of the main fountainheads of some of the finest, soundest, most logical political thought of the Nation, as well as the spring of spiritual resources and development for our great Nation.

To speak of the "one person—one vote" theory is to speak in terms of what might be said to be the individual rights of one person standing alone. I point out that people have collective rights; that when one enters any form of government, he gives up some of his individual rights. When one enters our form of Government, he cannot continue to carry with him every single, individual right that he might be considered to have solely as an individual. But in fact, we strengthen our individual rights, our civil rights, by becoming a part of the Government.

Therefore, we cannot correctly contend that everyone must be counted on a head-and-head basis, in order to give all people so-called equality with reference to the impact or weight of their votes. The Court's decision would put everything on an individual basis, and would deny the validity of what I call the collective rights of people who live in the less populated counties or for any other reason are not part of a large group.

Only yesterday, I was discussing this matter with the Senator from Alaska. He told me—and this is an amazing story, because it shows the consistency of human nature—that when Alaska achieved statehood, under the procedure for apportionment for the legislature, even though the Eskimos were not numerous, and lived on the fringe of the State, they were given representation in the Alaska Legislature far beyond their numerical strength, because the Alaska Legislature in its wisdom decided that the Eskimos were entitled to that representation as a group, and that it was an asset to both the State of Alaska and to the Nation to make the Eskimos feel that they belonged to the State and had responsibilities to carry out.

I thought of how far it was from the borders of my State to Alaska and the Eskimo people; but the principles of government are all the same. However, all this was swept aside by one stroke of the pen by the branch of our Government that is invading the legislative responsibility.

Mr. SIMPSON. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield to the Senator from Wyoming.

Mr. SIMPSON. Does the Senator from Mississippi know that the Chief Justice of the Supreme Court once held the same doctrine which Senators have been expounding here? Does the Senator from Mississippi realize that the Chief Justice of the Supreme Court held that doctrine with respect to representation by areas in California when he was Governor of California—a doctrine which is in total contradiction to the present attitude of the Chief Justice in connection with the opinions he delivered on June 15, 1964?

Mr. STENNIS. I was not aware of that. Perhaps the Senator from Wyoming will state the details.

Mr. SIMPSON. He made a very distinct enunciation of the philosophy which he, himself, then endorsed, as Governor of California, and which all of us hold so dearly in our States.

The statement he made at that time is as follows:

> The agricultural counties of California are far more important in the life of our State than the relationship their population bears to the entire population of the State. It is for this reason that I never have been in

favor of restricting their representation in our State senate to a strictly population basis. It is the same reason that the Founding Fathers of our country gave balanced representation to the States of the Union, equal representation in one house and proportionate representation based upon population in the other.

That was in 1948, when he was Governor Warren, the Republican Governor of California. It was a statement with which almost all elective officeholders could agree.

Mr. STENNIS. The Senator from Wyoming has made a definite contribution to the debate; and I thank him. The statement he has quoted is sound logic and sound governmental philosophy, and I cannot understand the reversal of Mr. Warren's thinking. I speak with due deference of the Chief Justice; but that was a significant announcement by the chief executive of California. It was made at a time when he had his feet on the ground and felt a responsibility to the people, and when he recognized the soundness of the position that the contribution to Government from those areas is not in proportion to the number of people who may live there.

Mr. SIMPSON. That is exactly in keeping with the philosophy now being expressed in the very fine presentation being made by the Senator from Mississippi.

Mr. STENNIS. I thank the Senator very much.

Mr. President, in recognition of the clear usurpation of power by the Federal courts and the danger of the decisions rendered by the Supreme Court on June 15, I and other Members of the Congress have proposed to the Constitution, amendments guaranteeing to the respective States the right to apportion their State legislatures. These proposals embody various provisions; but each of them recognizes the general principle that questions of legislative apportionment are peculiarly susceptible of solution at the local level, by legislative bodies, rather than judicial tribunals. In my opinion, it is incumbent on Congress to study these proposals and, with all due speed, present to the States an appropriate amendment for ratification.

It will, of course, be impossible for this action to be taken during the current session of Congress. Therefore, unless some temporary action is taken, the confusion and uncertainty which now exist among the various States will cause the validity of the actions of many State legislative bodies to be brought into question. In the meantime, Federal courts will continue to assume jurisdiction of these cases and will continue to abrogate the constitutional and legislative powers of numerous States. The judgment of the Federal judiciary will be substituted for the judgment of the people of the respective States and the actions of their respective legislative bodies. The overall effect of these actions will be to deprive the residents of many rural areas and small towns of their representation in their respective State legislatures.

These facts make it mandatory that Congress act immediately to provide temporary relief for a brief period of time, during which Congress and the States can consider further appropriate action. I was, therefore, pleased to join as a cosponsor, with Senator DIRKSEN and other Senators, in introducing S. 3069, to temporarily restrict the jurisdiction of the Federal courts in apportionment cases.

Mr. AIKEN. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield to the Senator from Vermont.

Mr. AIKEN. Can the Senator from Mississippi tell us how many countries in the world permit their courts to reverse acts of their legislative branches of Government? I understand that there are virtually no other countries in which reversal by the courts of acts by the legislative branch has been tolerated.

Mr. STENNIS. I think the Senator from Vermont is correct. They would be few and far between.

Mr. AIKEN. I believe that in some countries a separate commission, established by the legislative branch itself, interprets the laws, when their meaning is in dispute; and the courts are prohibited from any such act, and are restricted to the administration of justice.

Mr. STENNIS. Yes. The wisdom of the ages has developed the soundness of that system.

Mr. AIKEN. Can the Senator from Mississippi tell us what part of the Constitution authorizes the Supreme Court to reverse acts of the Congress?

Mr. STENNIS. A long history is involved——

Mr. AIKEN. I refer to the Constitution itself; I do not mean any decisions which a judge may have rightfully or wrongfully reached in the last 170 years. What part of the Constitution gives that authority?

Mr. STENNIS. The Constitution does not contain any express words to that effect, as the Senator from Vermont already knows. It is only an implied power that has been assented to.

Mr. AIKEN. It was a preempted power.

Mr. STENNIS. That is correct. In a large measure, it is based plainly on the principle that the Constitution and the laws that are passed in pursuance thereto shall be the supreme law of the land.

Mr. AIKEN. The Constitution had a gap in it which did not cover this situation. Has the Congress undertaken to limit or define the powers of the Court so far as concerns interpretation of acts of Congress?

Mr. STENNIS. Not directly. Many times the Congress has reversed the ruling announced by a court. But when it is a constitutional interpretation, we are in the awkward position.

Mr. AIKEN. Does the Senator from Mississippi not think that the time has come for a complete review of our Court system, to define and limit the authority of the Court?

Mr. STENNIS. The Senator from Mississippi agrees. I believe that time has come. I have been a very devoted follower of the Constitution as I understood it. It is a part of my thinking that we should enhance the dignity of the judiciary. As the Senator knows, there have been some decisions that were very vigorously opposed by people in my area of the country. I have thought about that at length. Perhaps I could have been biased on that subject. There are many decisions that are entirely removed from the decisions in the so-called civil rights cases. The decision on apportionment is an outstanding illustration. But I am convinced from all of the civil rights controversy that something must be done along the lines that the Senator suggests.

I do not know whether we should change the life tenure or change the method of selection. But something must be done. We are gradually losing our basic fundamentals in the Constitution.

Mr. AIKEN. Do I correctly understand that the Constitution gave Congress the authority to establish and ordain Federal courts that might be needed?

Mr. STENNIS. The Senator is correct. The Constitution gives the Supreme Court only certain limited original jurisdiction. It then leaves up to Congress the question as to what the appellate jurisdiction should be.

Mr. AIKEN. That is correct. The appellate and district courts exist by authorization of Congress.

Mr. STENNIS. That is correct. They are entirely creatures of Congress. There is an express provision in the Constitution stating that Congress shall have that power.

Mr. AIKEN. Does the Senator from Mississippi have any question whatever in his mind that Congress, being the only body that can establish such courts, also has the power to define their powers and limit their jurisdiction?

Mr. STENNIS. There is no question about it. There is no reservation about it in the mind of the Senator from Mississippi. The only argument that could be made with any plausibility, as I understand, is as to something positive—something that has already been decided. It could be argued that Congress was trying to pass an ex-post facto law. But the law of necessity applies. I believe we are fully within our bounds.

Mr. AIKEN. In the past we have enacted retroactive legislation to cover violations of law which had been committed by Federal officers. That was done very extensively during the late 1930's.

Mr. STENNIS. I do not believe we could go back and make a crime out of any past action.

Mr. AIKEN. No. I do not want to do that. But I do not believe that if a Federal judge made a mistake 100 years ago, the people of the country are bound to honor that mistake forever afterward.

I believe that it is high time for Congress to review the court system of the United States and decided what the realm of operation may be, and what the limitation may be.

Yesterday the Senator from Illinois [Mr. DOUGLAS] repeatedly called attention to the fact that the State of Vermont has been in existence for 173 years and had not revised its method of elect-

ing members of the lower house of the legislature.

I call attention to the fact that the United States has been in existence for 173 years. It has not defined the limits of jurisdiction of the courts. It is high time that that be done. I believe we can perform no greater service than remaining here through the fall, if necessary, to enact such legislation and submit such constitutional amendments as may be necessary to place our court system in its proper perspective, and not permit the courts to override other branches of the Government.

Mr. STENNIS. I thank the Senator. The subject must be reviewed. I would not want to restrict myself to any particular pattern of activity.

Mr. AIKEN. Congress should do now what Congress failed to do 173 years ago.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. SIMPSON. What are the qualifications for membership on the Supreme Court of the United States? Are they set forth in any document?

Mr. STENNIS. There are no qualifications set forth in the Constitution. It simply provides that such officers shall be appointed by the President, with the advice and consent of the Senate. The qualifications of Supreme Court Justices therefore depend on the appointing officer and on Members of the Senate. There is no requirement that the man must have a legal education or that he must be a member of the bar. No definite requirement is set out. He does not even have to be an attorney.

I thank the two Senators for their contributions.

This measure was reported by the Senate Committee on Judiciary on August 5, 1964, by a vote of 10 to 2, and was subsequently introduced as an amendment to the Foreign Assistance Act of 1964.

The purpose of S. 3069 is to temporarily restrict the jurisdiction of the Federal courts to entertain questions of legislative apportionment in the several States. It was offered as a stopgap measure, designed not to affect the permanent jurisdiction of the courts but only to provide a period for deliberation and study by responsible officials, free from confusion and the threat of an immediate court action. In my opinion, the enactment of this proposal would be a legitimate exercise of congressional control over the appellate jurisdiction of the Supreme Court and of the original and appellate jurisdiction of the lower Federal courts. Article III of the Constitution established the judicial power of the United States, established the Supreme Court, and empowers the Congress to establish inferior courts. Section 2, clause 2 of said article III further provides:

> In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

That is pertinent to the questions that have been asked by the Senator from Vermont.

This provision of the Constitution is a clear, express, and direct mandate to the Congress. The original wording of the Constitution of the United States gave Congress the direct responsibility of making exceptions and regulations regarding the jurisdiction not only of the Supreme Court, but also of the lower Federal courts the only exception being a few instances in which the Supreme Court is given original jurisdiction.

The clear meaning of this provision compels the conclusion that the Founding Fathers recognized the probable necessity of congressional action to restrict the appellate jurisdiction of the Supreme Court. It likewise cannot be questioned that Congress has the authority, not only to establish a system of lower Federal courts, but also to prescribe both the original and appellate jurisdiction of those courts. Let it therefore not be said that the enactment of S. 3069 would be an unconstitutional encroachment by the Congress on the authority of the Federal judiciary. To the contrary, the enactment of this measure would be an exercise of congressional repsonsibility clearly set forth in the Constitution, if the Congress in its wisdom determines that the Supreme Court has exceeded its jurisdiction and rendered a decision not in harmony with the Constitution. There is nothing sacred and untouchable about judicial decisions, Mr. President, and unwise and unconstitutional actions of the judiciary should and must be corrected by the wise exercise of legislative responsibility.

I am talking about responsibility that is authorized and a duty which the Constitution of the United States has placed upon us. That is one of the real values of our check and balance system of Government.

Of course, all members of this body are familiar with what has transpired since the introduction of S. 3069. A great hue and cry has gone up that the sponsors of that measure and the subsequent amendment to the Foreign Assistance Act are motivated by self-interest. Threats have been made that the opponents of this proposal will filibuster and that they will oppose the enactment of the foreign aid bill. We have been told that this is an election year and that we must adjourn prior to August 24. My reply, Mr. President, is that this measure is far more important than many other bills being considered in the closing weeks of this session of Congress, and in my opinion, we should remain in session as long as necessary to resolve this question.

But I am aware, Mr. President, of the realities of the legislative process. The Congress will adjourn soon, and unless some measure is adopted, nothing will be done. It is for this reason that I support the adoption of the Dirksen-Mansfield compromise amendment, although I entertain some strong reservations about its effectiveness. In the first place, it is not absolutely binding on the Federal courts. Although it provides that an action involving the constitutionality of the apportionment of representation in a State legislature may be stayed "for such a period as will be in the public interest," there are no guidelines for the courts to determine what is the "public interest" and how long a stay is necessary to effectuate the public interest. In addition, the amendment provides that a stay order shall be in the public interest for certain specified purposes "in the absence of highly unusual circumstances." Again there are no guidelines for the courts to determine what may constitute a highly unusual circumstance. In my opinion, this is a highly vague and indefinite phrase and one which is devoid of proper legislative definition.

Nevertheless we are up against the realities of this situation and some kind of action is necessary.

My second objection to this proposal is that it constitutes a recognition on the part of Congress that State legislative apportionment is amendable to constitutional standards established by the equal protection clause of the 14th amendment. In my opinion, the Constitution does not give to the Federal Government the authority to intervene in the apportionment of the legislature by the duly constituted authority of the respective States.

My support of the amendment therefore should not be interpreted as approval of the doctrine advanced by the Supreme Court in Reynolds against Sims and companion cases decided on June 15.

I think that point is clear with a great number of Senators who wholeheartedly support the amendment. The question now is one of emergency. We are trying to rescue the States, with their powers and responsibilities, from the onrushing hands of the courts. As a practical question, something must be done in that respect rather quickly.

Mr. GORE. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Tennessee.

Mr. GORE. I have listened with interest to the eloquent address of the senior Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. GORE. I wondered whether the reference in paragraph (d) beginning at line 22, page 2, of the Dirksen amendment, did not in fact tend to give legislative approval or sanction to the course of action upon which the court is embarked. I wonder if the Senator would give me the benefit of his views. If the Senator will yield, I should like to read that paragraph.

Mr. STENNIS. I am glad to yield to the Senator from Tennessee.

Mr. GORE. The paragraph reads as follows:

> (d) In the event that a State fails to apportion representation in the legislature in accordance with the Constitution within the time allowed by any stay granted pursuant to this section, the district court having jurisdiction of the action shall apportion representation in such legislature among appropriate districts so as to conform to the constitution and laws of such State insofar as is possible consistent with the requirements of the Constitution of the United States, and the court may make such further orders pertaining thereto and to the conduct of elections as may be appropriate.

I would appreciate having the views of the able Senator on that paragraph.

Mr. STENNIS. The only frank answer that I can give to the Senator from Tennessee is that the provision is com-

promise language. It is unfortunate. That language recognizes the power of the Court under the Constitution to make the proposed apportionments.

As I have said, I do not like that phase of it at all. As I see it, we could afford to agree to language of that kind only to meet an emergency.

We are trying to gain time to stay these proceedings to the extent that the States will still have their powers preserved, and so that we shall have time to formulate a constitutional amendment which would go to the heart of the problem. The amendment would be submitted to the Congress and then to the States, respectively. We are up against the proposal which the Supreme Court of the United States has made. The Court has said that it has jurisdiction of the question, and has power that it can use. The Supreme Court has already used that power. The proposed provision is compromise language.

Mr. GORE. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from Tennessee.

Mr. GORE. It seems to me that a contradiction is presented if one says on the one hand that the Court has acted beyond the Constitution, and therefore the amendment must be adopted, when the amendment itself contains an affirmation and a provision which would authorize and direct the Court to proceed upon a course which some say is unconstitutional.

Mr. STENNIS. Let me answer the Senator in this way: The Senator raises a serious point that goes to the heart of the matter. If this question were being considered prior to a decision by the Supreme Court, his argument would apply—namely, that Congress was giving its interpretation that the Court has such power. But that is not the case today. We are up against a situation in which the Court already has assumed this power. We are trying to stay temporarily, by this proposal, the implementation of that power. I do not like the idea, either, that this proposal recognizes the principle, but it is a fact of life under the present holding of the Supreme Court of the United States. Senators who vote for the amendment ought to point out, as the Senator from Tennessee has pointed out, that while it may seem to be a contradiction, that is due only to the fact that the power has been assumed.

Mr. GORE. I thank the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Tennessee for his contribution.

The question before us is of such importance that it demands immediate action, and, under the circumstances, I believe it necessary that this amendment be adopted. It at least expresses the dissatisfaction of Congress with these latest decisions of the Court and offers the best possible hope of immediate relief. I therefore support the adoption of this amendment, but serve notice that I intend to diligently work for the adoption of an appropriate constitutional amendment during the 89th Congress to be convened in January next.

I thank the majority leader for his understanding. I yield the floor.

THE CALENDAR

On request of Mr. MANSFIELD, and by unanimous consent, the following measures were considered and acted upon, as indicated:

INTERNATIONAL EXPOSITION FOR SOUTHERN CALIFORNIA IN 1968

The joint resolution (S.J. Res. 162) extending recognition to the International Exposition for Southern California in the year 1968 and authorizing the President to issue a proclamation calling upon the several States of the Union and foreign countries to take part in the exposition was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby recognizes the International Exposition for South California in the year 1968 as an event designed to develop and intensify a climate of good will and understanding among men and nations, thereby promoting a lasting peace among all people on the planet of the Earth.

SEC. 2. To implement the recognition declared in the first section of this Act, the President, at such time as he deems appropriate, is authorized and requested to issue a proclamation calling upon the several States of the Union and foreign countries to take part in the exposition.

SEC. 3. The joint resolution approved August 31, 1962 (76 Stat. 414), is repealed.

The preamble was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1384), explaining the purposes of the joint resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Committee on Foreign Relations, having had under consideration the joint resolution (S.J. Res. 162), extending recognition to the International Exposition for Southern California in the year 1968 and authorizing the President to issue a proclamation calling upon the several States of the Union and foreign countries to take part in the exposition, report the same favorably without amendment and recommend that it be passed by the Senate.

The purpose of the joint resolution is stated by its title. It also repeals a joint resolution approved August 31, 1962 (76 Stat. 414), which is identical to Senate Joint Resolution 162, except for the year. The earlier resolution referred to the year 1966 but unavoidable delays have occurred and endorsement for the year 1968 is now being sought by the sponsors of the exposition. No expenditures of Federal funds are involved in approval of this measure.

MOTOR FUELS CONSUMED BY INTERSTATE BUSES

The Senate proceeded to consider the bill (S. 2208) granting the consent of Congress to a compact relating to taxation of motor fuels consumed by interstate buses and to an agreement relating to bus taxation proration and reciprocity which had been reported from the Committee on the Judiciary, with amendments, on page 6, after line 12, to strike out:

(1) the term "Administrator" shall mean Supervisor of Sales, Use, and Excise Taxes;

At the beginning of line 15, to strike out "(2)" and insert "(1)"; at the beginning of line 17, to strike out "(3)" and insert "(2)"; in line 20, after the word "Columbia", to strike out "is hereby authorized and directed to" and insert "shall"; in line 22, after the word "and", to strike out "to"; on page 7, line 1, after the word "compact.", to insert "Notwithstanding any provision of this Act, nothing herein shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners (other than the entry into a compact authorized by this Act) or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan."; on page 19, after line 17, to strike out:

SEC. 202. As used in the agreement, with reference to the District of Columbia, the term "Administrator" shall mean Director of Department of Motor Vehicles.

At the beginning of line 21, to strike out "Sec. 203." and insert "Sec. 202."; in the same line, after the amendment just above stated, to strike out "The Director of Department of Motor Vehicles" and insert "The Board of Commissioners"; on page 20, at the beginning of line 8, to strike out "Sec. 204." and insert "Sec. 203."; in line 9, after the word "Columbia", to strike out "is hereby authorized and directed to" and insert "shall"; in line 12, after the word "and", to strike out "to"; in line 13, after the word "agreement.", to insert "Notwithstanding any provision of this Act, nothing herein shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners (other than the entry into a compact authorized by this Act) or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan."; at the beginning of line 24, to strike out "Sec. 205." and insert "Sec. 204."; on page 21, at the beginning of line 5, to strike out "Sec. 206." and insert "Sec. 205."; and at the beginning of line 10, to strike out "Sec. 207." and insert "Sec. 206."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 101. The consent of Congress is hereby given to any of the several States and to the District of Columbia to enter into a compact on taxation of motor fuels consumed by interstate buses and to the participation in such compact of the Provinces of Canada and the States, territories, and Federal District of Mexico. Such compact shall be in substantially the following form: